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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 004125

SIPDIS

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SUBJECT: IRAQI ISLAMIC PARTY OFFERS CONDITIONAL SUPPORT FOR CONSTITUTION

Classified By: AMBASSADOR ZALMAY KHALILZAD, REASONS 1.4 (B) AND (D).

1. (C) SUMMARY: The Sunni Arab Iraqi Islamic Party conditionally agreed to support the constitution on the basis of a package of amendments proposed by the Ambassador in an October 5 meeting. The amendments include a provision that would have the next National Assembly create a "Constitutional Review Commission" with a one-time ability to present a package of amendments to the public on the basis of an absolute majority vote. Former Prime Minister Ayad Allawi attended the dinner and pushed strongly for the proposal, arguing that the Sunni Waqf would likely come on board on this basis as well. The Ambassador is heading north October 6 to present the proposal along with several other amendments to KDP leader Masud Barzani before taking it to the Shia coalition later in the day. END SUMMARY.

2. (C) Former Prime Minister Ayad Allawi, joined by Iraqi Islamic Party leaders Tareq al-Hashimi and Ayed Samarraie joined the Ambassador for an iftar October 5. Allawi argued forcefully that voting down the constitution would endanger the country far more than would passage of a constitution with flaws.

Iraqi Islamic Party Agrees Conditionally

3. (C) Hashimi conditionally agreed to support the constitution after the Ambassador proposed allowing a special one-time opportunity to amend the document. The proposal, which the Ambassador will pitch to Kurdish President Masud Barzani October 6, would require the next National Assembly to appoint a "Constitutional Review Commission" that would have the one-time opportunity to propose a package of amendments to the constitution. Any proposed amendments would go to the National Assembly for approval by absolute majority and would then be put to the public for approval in a referendum to be conducted on the same terms as the October 2005 constitutional referendum itself. The referendum would pass if approved by a majority of participating voters and would fail if rejected by two-thirds of participating voters in three governorates or more.

4. (C) Allawi expected that former Sunni Waqf director Adnan Duleimi and current director Ahmed Abd al-Ghafour al-Samarai would both support the constitution under these terms. The Iraqi Islamic Party and Sunni Waqf would then join the Shia and Kurdish coalitions to back the document in an October 10 conference.

The First Amendment Package

5. (C) The Ambassador has thus far discussed the following four amendments with the Shia and Kurdish coalitions and in meetings in Saudi Arabia, Jordan and the UAE:

-- An alternative Article 4, Part 3 would clarify that Arabic will be spoken in both federal and regional Kurdistan offices. It would read, "The federal and official institutions in the Kurdistan region will use the two languages."

-- A proposed addition to section 1 would emphasize Iraq's unity. It would read, "Federal Iraq is a united country that is fully sovereign, and this constitution is the guarantor of its unity."

-- Article 3 would be adjusted to put added emphasis on Iraq's Arab League membership. It would read, "Iraq is a country of multiple nationalities and religions and sects. It is a founding and active member of the Arab League and is committed to its covenant, and it is a part of the Islamic world."

-- An addition to Article 131 on de-Ba'athification would clarify that non-criminal Ba'athists will not be persecuted. It would read, "Members of the former Ba'ath Party who were not senior leaders and who did not commit criminal offenses shall not be prosecuted and shall enjoy equality and protection under the law along with all Iraqis."

The Added Amendment Package

¶6. (C) In addition to the creation of the Constitutional Review Commission, the Ambassador now plans to push the following additional changes to seal Iraqi Islamic Party support:

-- Article 3 would have an added reference that Iraq is "part of the Arab world." This will be difficult and require a strong push on a reluctant Barzani.

-- An alteration to Article 114 would clarify the nature of the future law to be passed on regional entity formation. It would read, "The Council of Representatives shall enact, in a period not to exceed six months from the date of its first session, a law that defines the executive procedures (rules and conditions) to form regions, by a simple majority of the members present." Any changes to this amendment are sensitive to the Shia coalition and will require a strong push.

-- Article 18 would be re-ordered to clarify at its start that all citizenship provisions will be regulated by law. The legal content of the article would remain the same.

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